REMARKS

Claims 86-111 are pending in this application. Claim 101 has been amended, and new claims 112-117 have been added herein. No new matter has been added by way of this amendment. Claim 101 has been amended to delete recitation of "domain" and now parallels the language, *e.g.*, of claim 88, which recites "a VL comprising" or "a VH comprising" various CDR sequences. New claims 112 and 113 parallel the recitations in pending claims 99 and 101, respectively, but instead depend on claim 88. Support for new claims 114-117 can be found in the originally filed specification, *e.g.*, at p. 13, line 18 and p. 17, lines 11-12.

Thus, following entry of this amendment, claims 86-117 will be pending in this application.

I. Telephonic Interview

The Examiner is thanked for the courtesy extended in the Telephonic Interview with Applicants' representatives, Jennifer Chheda and Tamera Weisser, October 6, 2009. First, Applicants requested clarification from the Examiner as to the identity of the "Johnson *et al.*" reference cited in the Office Action dated July 6, 2009 because the pages cited by the Examiner on page 4 of the Office Action (*e.g.*, page 1218 of Johnson *et al.*) did not correlate with the page numbers of the "Johnson *et al.*" reference provided in the Notice of References Cited (Johnson *et al.* (1999) *J. Infect. Dis.* 180:35-40). The Examiner indicated that the "Johnson *et al.*" reference cited in the Office Action should instead have been listed in the Notice of References Cited as Johnson *et al.* (1997) *J. Infect. Dis.* 176:1215-1224.

Second, Applicants informed the Examiner of the Decision on Petition dated September 10, 2009, which granted Applicants' Petition to Accept an Unintentionally Delayed Claim for Priority Under 37 C.F.R. § 1.78.[1] The Examiner indicated that the art rejections in the Office

[1] It is noted that the Petition instead should have been dismissed on all ground in view of the fact that a Filing Receipt was mailed by the U.S. Patent ant Trademark Office (USPTO) on March 28, 2004 and priority was properly recognized. The Filing Receipt was not (and currently is not) in the USPTO Patent Application Information Retrieval System (PAIR), but was later identified in Applicants' own physical file. As such, a Request for Refund of the petition fee is also being concurrently submitted herewith and includes a copy of the March 28, 2004 Filing Receipt.

Action dated July 6, 2009 would be withdrawn in view of the Petition Decision and acceptance of the priority claim.

II. Amendment to the Specification filed March 31, 2009

Applicants respectfully request confirmation from Examiner that the Amendment to the Specification filed on March 31, 2009 was indeed entered, such that the first paragraph of the specification now reads as follows:

> This application is a continuation of U.S. Serial No. 09/771,415, filed January 26, 2001 (now U.S. Patent No. 6,656,467), which claims the benefit of U.S. Provisional Application Serial No. 60/178,426, filed January 27, 2000, the disclosure of each of which is hereby incorporated by reference in its entirety.

III. The Rejections Under 35 U.S.C. § 102 Should be Withdrawn.

A. Young *et al.* - U.S. Publ. No. 2002/0164326 A1

Claims 86-111 are rejected under 35 U.S.C. § 102(a) as allegedly being anticipated by Young *et al.* (U.S. Publ. No. 2002/0164326 A1). Applicants respectfully traverse this ground of rejection.

This application is a continuation of U.S. Serial No. 09/771,415, filed January 26, 2001, which claims the benefit of U.S. Provisional Application Serial No. 60/178,426, filed January 27, 2000, and, as discussed above, the USPTO has acknowledged that this priority claim is proper. As such, U.S. Publ. No. 2002/0164326 A1 (which is the publication of U.S. Serial No. 09/771,415 to which the present application properly claims priority) cannot be used as a prior art reference for the purpose of a rejection under 35 U.S.C. § 102 in the present application. Accordingly, reconsideration and withdrawal of this ground of rejection is respectfully requested.

B. Young *et al.* - WO 01/55217

Claims 86-111 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Young *et al.* (WO 01/55217). Applicants respectfully traverse this ground of rejection.

This application is a continuation of U.S. Serial No. 09/771,415, filed January 26, 2001, which claims the benefit of U.S. Provisional Application Serial No. 60/178,426, filed January 27,

2000, and, as discussed above, the USPTO has acknowledged that this priority claim is proper. As such, WO 01/55217, which also claims the benefit of U.S. Provisional Application Serial No. 60/178,426, filed January 27, 2000, cannot be used as a prior art reference for the purpose of a rejection under 35 U.S.C. § 102 in the present application. Accordingly, reconsideration and withdrawal of this ground of rejection is respectfully requested.

IV. The Rejections Under 35 U.S.C. § 103 Should be Withdrawn

Claims 86, 87, 89, 91, 93, 94, 96, 98, 99, 100-103 and 105-107 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Johnson *et al.* (1997) *J. Infect. Dis.* 176:1215-1224 ("Johnson *et al.*") (see above) in view of Shreder (March 2000) *Methods* 20:372-379). Applicants respectfully traverse this ground of rejection.

The Examiner cites Johnson *et al.* as disclosing MEDI-493 (palivizumab) and microneutralization assays (Office Action, page 4). However, the Examiner admits that Johnson *et al.* does not disclose the high affinity neutralizing immunoglobulins recited in the present claims (*Id.*).

In an effort to supplement the disclosure of Johnson *et al.*, the Examiner cites Shreder as disclosing antibodies having affinities in the range of 10^5 M to 10^{12} M. Shreder relates to the use of haptens as probes of the antibody response. There is no teaching or suggestion in Shreder of any antibody that specifically binds to RSV F antigen, *much less* a neutralizing immunoglobulin that specifically binds to the same epitope of a RSV F antigen as the antibody IX-493 with a K_a of at least 10^{10} M^{-1}. The fact that antibodies can have affinities ranging from 10^5 to 10^{12} M^{-1} does not suggest making an antibody that specifically binds to a RSV F antigen with a K_a of at least 10^{10} M^{-1}. Moreover, Shreder does not provide any motivation or reasonable expectation of successfully producing a neutralizing immunoglobulin that specifically binds to the same epitope of a RSV F antigen as the IX-493 antibody with a K_a of at least 10^{10} M^{-1}, as presently claimed.

That being said, Shreder is not a proper prior art reference for the purpose of a rejection under 35 U.S.C. § 103 because Shreder was published after the earliest claimed priority date of the present application. In particular, the present application has an earliest claimed priority date

of January 27, 2000 (see above); whereas Shreder was later published in March 2000. As such, Applicants submit that Shreder should be removed as a prior art reference.

Accordingly, Applicants respectfully request that this ground of rejection be reconsidered and withdrawn.

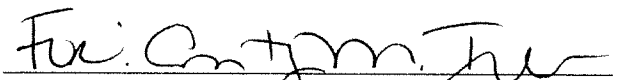
V. Conclusion

In view of the foregoing remarks, Applicants respectfully submit that this application is now in condition for immediate allowance. If the Examiner disagrees, it is requested that the Examiner call the undersigned at the number listed below to arrange a telephone interview to expedite prosecution of the application.

No fees are believed due in connection with this Response. However, if there are any fees due, please charge them to Deposit Account 50-3013. If a fee is required for an extension of time not accounted for, such an extension is requested and the fee should be charged to Jones Day Deposit Account 50-3013. Also, please charge any fees underpaid or credit any fees overpaid to the same Deposit Account.

Respectfully submitted,

Date: Nov. 6, 2009



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